



SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 388 be amended to read as follows:

- 1 Page 2, between lines 18 and 19, begin a new paragraph and insert:
- 2 "SECTION 3. IC 34-24-1-1, AS AMENDED BY P.L.217-2014,
- 3 SECTION 187, IS AMENDED TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) The following may be seized:
- 5 (1) All vehicles (as defined by IC 35-31.5-2-346), if they are used
- 6 or are intended for use by the person or persons in possession of
- 7 them to transport or in any manner to facilitate the transportation
- 8 of the following:
- 9 (A) A controlled substance for the purpose of committing,
- 10 attempting to commit, or conspiring to commit any of the
- 11 following:
- 12 (i) Dealing in or manufacturing cocaine or a narcotic drug
- 13 (IC 35-48-4-1).
- 14 (ii) Dealing in methamphetamine (IC 35-48-4-1.1).
- 15 (iii) Dealing in a schedule I, II, or III controlled substance
- 16 (IC 35-48-4-2).
- 17 (iv) Dealing in a schedule IV controlled substance
- 18 (IC 35-48-4-3).
- 19 (v) Dealing in a schedule V controlled substance
- 20 (IC 35-48-4-4).
- 21 (vi) Dealing in a counterfeit substance (IC 35-48-4-5).
- 22 (vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).
- 23 (viii) Possession of methamphetamine (IC 35-48-4-6.1).
- 24 (ix) Dealing in paraphernalia (IC 35-48-4-8.5).
- 25 (x) Dealing in marijuana, hash oil, hashish, or salvia
- 26 (IC 35-48-4-10).
- 27 (xi) Dealing in a synthetic drug or synthetic drug lookalike

- 1 substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its
2 amendment in 2013).
- 3 (B) Any stolen (IC 35-43-4-2) or converted property
4 (IC 35-43-4-3) if the retail or repurchase value of that property
5 is one hundred dollars (\$100) or more.
- 6 (C) Any hazardous waste in violation of IC 13-30-10-1.5.
- 7 (D) A bomb (as defined in IC 35-31.5-2-31) or weapon of
8 mass destruction (as defined in IC 35-31.5-2-354) used to
9 commit, used in an attempt to commit, or used in a conspiracy
10 to commit an offense under IC 35-47 as part of or in
11 furtherance of an act of terrorism (as defined by
12 IC 35-31.5-2-329).
- 13 (2) All money, negotiable instruments, securities, weapons,
14 communications devices, or any property used to commit, used in
15 an attempt to commit, or used in a conspiracy to commit an
16 offense under IC 35-47 as part of or in furtherance of an act of
17 terrorism or commonly used as consideration for a violation of
18 IC 35-48-4 (other than items subject to forfeiture under
19 IC 16-42-20-5 or IC 16-6-8.5-5.1, before its repeal):
- 20 (A) furnished or intended to be furnished by any person in
21 exchange for an act that is in violation of a criminal statute;
- 22 (B) used to facilitate any violation of a criminal statute; or
- 23 (C) traceable as proceeds of the violation of a criminal statute.
- 24 (3) Any portion of real or personal property purchased with
25 money that is traceable as a proceed of a violation of a criminal
26 statute.
- 27 (4) A vehicle that is used by a person to:
- 28 (A) commit, attempt to commit, or conspire to commit;
- 29 (B) facilitate the commission of; or
- 30 (C) escape from the commission of;
- 31 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
32 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
33 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
34 under IC 35-47 as part of or in furtherance of an act of terrorism.
- 35 (5) Real property owned by a person who uses it to commit any of
36 the following as a Level 1, Level 2, Level 3, Level 4, or Level 5
37 felony:
- 38 (A) Dealing in or manufacturing cocaine or a narcotic drug
39 (IC 35-48-4-1).
- 40 (B) Dealing in methamphetamine (IC 35-48-4-1.1).
- 41 (C) Dealing in a schedule I, II, or III controlled substance
42 (IC 35-48-4-2).
- 43 (D) Dealing in a schedule IV controlled substance
44 (IC 35-48-4-3).
- 45 (E) Dealing in marijuana, hash oil, hashish, or salvia
46 (IC 35-48-4-10).

- 1 (F) Dealing in a synthetic drug or synthetic drug lookalike
2 substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its
3 amendment in 2013).
- 4 (6) Equipment and recordings used by a person to commit fraud
5 under IC 35-43-5-4(10).
- 6 (7) Recordings sold, rented, transported, or possessed by a person
7 in violation of IC 24-4-10.
- 8 (8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as
9 defined by IC 35-45-6-1) that is the object of a corrupt business
10 influence violation (IC 35-45-6-2).
- 11 (9) Unlawful telecommunications devices (as defined in
12 IC 35-45-13-6) and plans, instructions, or publications used to
13 commit an offense under IC 35-45-13.
- 14 (10) Any equipment, including computer equipment and cellular
15 telephones, used for or intended for use in preparing,
16 photographing, recording, videotaping, digitizing, printing,
17 copying, or disseminating matter in violation of IC 35-42-4.
- 18 (11) Destructive devices used, possessed, transported, or sold in
19 violation of IC 35-47.5.
- 20 (12) Tobacco products that are sold in violation of IC 24-3-5,
21 tobacco products that a person attempts to sell in violation of
22 IC 24-3-5, and other personal property owned and used by a
23 person to facilitate a violation of IC 24-3-5.
- 24 (13) Property used by a person to commit counterfeiting or
25 forgery in violation of IC 35-43-5-2.
- 26 (14) After December 31, 2005, if a person is convicted of an
27 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the
28 following real or personal property:
- 29 (A) Property used or intended to be used to commit, facilitate,
30 or promote the commission of the offense.
- 31 (B) Property constituting, derived from, or traceable to the
32 gross proceeds that the person obtained directly or indirectly
33 as a result of the offense.
- 34 (15) Except as provided in subsection (e), a vehicle used by a
35 person who operates the vehicle:
- 36 (A) while intoxicated, in violation of IC 9-30-5-1 through
37 IC 9-30-5-5, if in the previous five (5) years the person has two
38 (2) or more prior unrelated convictions:
- 39 (i) for operating a motor vehicle while intoxicated in
40 violation of IC 9-30-5-1 through IC 9-30-5-5; or
41 (ii) for an offense that is substantially similar to IC 9-30-5-1
42 through IC 9-30-5-5 in another jurisdiction; or
43 (B) on a highway while the person's driving privileges are
44 suspended in violation of IC 9-24-19-2 through IC 9-24-19-3,
45 if in the previous five (5) years the person has two (2) or more
46 prior unrelated convictions:

(i) for operating a vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction.

If a court orders the seizure of a vehicle under this subdivision, the court shall transmit an order to the bureau of motor vehicles recommending that the bureau not permit a vehicle to be registered in the name of the person whose vehicle was seized until the person possesses a current driving license (as defined in IC 9-13-2-41).

(16) The following real or personal property:

(A) Property used or intended to be used to commit, facilitate, or promote the commission of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or IC 30-2-13-38(f).

(B) Property constituting, derived from, or traceable to the gross proceeds that a person obtains directly or indirectly as a result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or IC 30-2-13-38(f).

(17) An automated sales suppression device (as defined in IC 35-43-5-4.6(a)(1)) or phantom-ware (as defined in IC 35-43-5-4.6(a)(3)).

(18) Real or personal property, including a vehicle, that is used by a person to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of; or

(C) escape from the commission of;

a violation of IC 35-45-4-4 (promoting prostitution).

(19) Money or a vehicle used to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of; or

(C) escape from the commission of;

a violation of IC 35-45-4-3 (patronizing a prostitute).

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person

1 who is committing, attempting to commit, or conspiring to commit any
 2 of the following offenses shall be admitted into evidence in an action
 3 under this chapter as prima facie evidence that the money, negotiable
 4 instrument, security, or other thing of value is property that has been
 5 used or was to have been used to facilitate the violation of a criminal
 6 statute or is the proceeds of the violation of a criminal statute:

7 (1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a
 8 narcotic drug).

9 (2) IC 35-48-4-1.1 (dealing in methamphetamine).

10 (3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled
 11 substance).

12 (4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

13 (5) IC 35-48-4-4 (dealing in a schedule V controlled substance)
 14 as a Level 4 felony.

15 (6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a
 16 Level 3, Level 4, or Level 5 felony.

17 (7) IC 35-48-4-6.1 (possession of methamphetamine) as a Level
 18 3, Level 4, or Level 5 felony.

19 (8) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or
 20 salvia) as a Level 5 felony.

21 (9) IC 35-48-4-10.5 (dealing in a synthetic drug or synthetic drug
 22 lookalike substance) as a Level 5 felony or Level 6 felony (or as
 23 a Class C felony or Class D felony under IC 35-48-4-10 before its
 24 amendment in 2013).

25 (e) A vehicle operated by a person who is not:

26 (1) an owner of the vehicle; or

27 (2) the spouse of the person who owns the vehicle;

28 is not subject to seizure under subsection (a)(15) unless it can be
 29 proven by a preponderance of the evidence that the owner of the
 30 vehicle knowingly permitted the vehicle to be used to engage in
 31 conduct that subjects it to seizure under subsection (a)(15)."

32 Renumber all SECTIONS consecutively.

(Reference is to SB 388 as printed February 13, 2015.)

Senator DELPH

